

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of:	)	
	)	
Third Periodic Review of the	)	MB Docket No. 07-91
Commission's Rules and Policies	)	
Affecting the Conversion	)	
To Digital Television	)	
	)	

To: The Secretary

**COMMENTS**

Calipatria Broadcasting Company, LLC ("Calipatria"), the licensee of Station KAJB(TV), Calipatria, California ("KAJB" or the "Station"). by its attorneys, hereby submits these Comments in the above-referenced proceeding in which the Commission has requested comment on its proposals concerning the final phases of the transition to digital television ("DTV"), the introduction of DTV service and the recovery of spectrum at the end of the DTV Transition.<sup>1</sup> In these Comments, Calipatria wishes to address the situation of those Stations, which includes KAJB, facing outstanding international coordination issues involving their Post-Transition Channels. Calipatria submits that such a Station should (i) retain full interference protection on its Post-Transition Channel, where construction delays are due only to unresolved international coordination issues,

---

<sup>1</sup> See *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Notice of Proposed Rulemaking, MB Docket No. 07-91, FCC 07-70, released May 18, 2007 ("*NPRM*").

and (ii) not be required to complete construction of facilities on its Post-Transition Channel until the completion of the transition, now set for February 17, 2009. In support thereof, Calipatria states as follows.

Calipatria's efforts to keep pace of the DTV Transition have been frustrated by international coordination issues with Mexico. KAJB's original DTV allotment (Channel 50) was opposed by Mexican government,<sup>2</sup> which claimed that the Commission had improperly awarded Channel 50 to KAJB when that channel, under a treaty between Mexico and the United States, was allotted to Mexican use at San Luis Rio Colorado, Sonoma, Mexico. In order to extricate itself from this dispute, Calipatria elected a different Channel, in the second round of channel elections, and the Commission granted KAJB Channel 36 as its Tentative Channel Designation.<sup>3</sup> Under the terms of the *Seventh R&O* (at para. 104), Calipatria will have to file an application after this proceeding is completed and, hopefully, receive Mexican coordination.

In the *NPRM*, the Commission acknowledged the existence of Stations, such as KAJB, with pending applications due to unresolved international coordination issues, and indicated that such Stations should consult with Commission staff with respect to changes to their applications that may be necessary to secure international approval.<sup>4</sup> While Calipatria is committed to working with the staff to resolve KAJB's outstanding coordination issues with

---

<sup>2</sup> See File No. BPCDT-19991101AEM.

<sup>3</sup> See File No. BSRECT-20051031ACN. The TCD was made permanent by recent action of the Commission. *Seventh Report and Order and Eighth Further Notice of Proposed Rule Making* in MB Docket No. 87-268, released August 6, 2007 ("*Seventh R&O*").

<sup>4</sup> See *NPRM* at ¶ 23.

Mexico, Calipatria requests that the Commission use the current rulemaking proceeding to clarify the interference protection rights and construction deadlines applicable to Stations in KAJB's position.

First, Calipatria asks the Commission to confirm that Stations with pending DTV applications due to unresolved international coordination issues be guaranteed full interference protection rights on their Post-Transition Channels. Construction delays due to international coordination issues are obviously beyond the control of a Station licensee, and the digital operations of such a Station should not be compromised on the basis of factors beyond a licensee's control. Accordingly, the Commission should clearly establish that a Station's interference protection rights will remain fully intact during the pendency of any application proceeding involving an allotment subject to international concurrence. By clarifying the full protection rights accorded to such Stations, the Commission will help ward off aggressive efforts on the part of neighboring Stations, including Stations in Mexico, to encroach upon the protected service areas of those Stations awaiting international concurrence.

Second, Calipatria asks that the Commission establish February 17, 2009 as the construction and transition deadline for those Stations such as KAJB dealing with outstanding international coordination issues and the need to file an application for a new channel ratified in the *Seventh R&O*. The DTV construction efforts of Stations such as KAJB have obviously been complicated and delayed by unresolved international coordination issues that, after eight years of communications between the FCC and Mexico, has not resulted in a construction

permit being issued to KAJB. The difficulty of these issues require that Stations awaiting international concurrence be granted until the end of the DTV Transition to complete construction of their Post-Transition facilities and their flash cut move from their analog Channels to their Post-Transition DTV Channels. By clearly establishing the construction and transition deadline applicable to Stations with outstanding international coordination issues, the Commission will provide such Stations with the regulatory certainty needed to develop a realistic plan for completing the final phases of the DTV Transition.

In this regard, Calipatria submits that the Commission treat KAJB and similarly situated stations in the same manner as other Stations where their pre-transition and post-transition channels are different.<sup>5</sup> The Commission has reasoned that the key factor is to accomplish the goal of the completion of final DTV facilities. In this regard, it has proposed that "stations [] cease investing time and resources in completing facilities that will be used for the remainder of the transition simply in order to retain interference protection on their final, post-transition channels." *Id.* at para. 62. Calipatria agrees with this policy statement and urges the Commission to treat KAJB and other Stations that have had international coordination problems in a similar manner, where interference protection is provided and the individual Station has until the end of the DTV Transition in which to commence its digital operations.

Given the short time between now and the completion of the DTV Transition, Calipatria urges the Commission to provide the resources and

---

<sup>5</sup> See *NPRM* at ¶ 60, et seq.

commitment to securing coordinated authorizations for stations in the border region. Calipatria is well aware, from its own experience, of the difficulties attendant to securing Mexican responses to coordination requests and submits that the Commission should make the appropriate authorities in Mexico aware of the need to be more responsive in this regard. Since treaties govern broadcasting in the border area, meaning that KAJB other border Stations cannot operate without Mexican coordination, Calipatria requests that the Commission treat all border zone applications as expedited applications and communicate this to, and secure the cooperation of, the Mexican government.

In sum, Calipatria urges the Commission to use the instant rulemaking proceeding to clarify the rights and obligations of Stations facing outstanding international coordination issues, specifically that such Stations will (i) retain full interference protection on their Post-Transition Channels while international coordination issues are worked out, and (ii) be required to complete construction

of facilities on their Post-Transition Channels by February 17, 2009

Respectfully submitted,

**CALIPATRIA BROADCASTING  
COMPANY, LLC**

By: 

Barry A. Friedman  
Thompson Hine LLP  
1920 N. Street, N.W.  
Washington, D.C. 20036  
(202) 331-8800  
Its Attorney

Dated: August 15, 2007